

§ 230.9

33 CFR Ch. II (7–1–01 Edition)

scope with potentially significant environmental impacts shall be referred through the division commanders to HQUSACE (CECW-RE) for consultation with CEQ about NEPA arrangements.

§ 230.9 Categorical exclusions.

Actions listed below when considered individually and cumulatively do not have significant effects on the quality of the human environment and are categorically excluded from NEPA documentation. However, district commanders should be alert for extraordinary circumstances which may dictate the need to prepare an EA or an EIS. Even though an EA or EIS is not indicated for a Federal action because of a “categorical exclusion”, that fact does not exempt the action from compliance with any other Federal law. For example, compliance with the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Clean Water Act, etc., is always mandatory, even for actions not requiring an EA or EIS.

(a) For a period of one year from the effective date of these regulations, district commanders should maintain an information list on the type and number of categorical exclusion actions which due to extraordinary circumstances triggered the need for an EA and finding of no significant impact (FONSI) or an EIS. If a district commander determines that a categorical exclusion should be modified, the information will be furnished to the division commander, who will review and analyze the actions and circumstances to determine if there is a basis for recommending a modification to the list of categorical exclusions. HQUSACE (CECW-RE) will review recommended changes for Corps-wide consistency and revise the list accordingly. See 33 CFR part 325, Appendix B for categorical exclusions for regulatory actions.

(b) Activities at completed Corps projects which carry out the authorized project purposes. Examples include routine operation and maintenance actions, general administration, equipment purchases, custodial actions, erosion control, painting, repair, rehabilitation, replacement of existing structures and facilities such as build-

ings, roads, levees, groins and utilities, and installation of new buildings utilities, or roadways in developed areas.

(c) Minor maintenance dredging using existing disposal sites.

(d) Planning and technical studies which do not contain recommendations for authorization or funding for construction, but may recommend further study. This does not exclude consideration of environmental matters in the studies.

(e) All Operations and Maintenance grants, general plans, agreements, etc., necessary to carry out land use, development and other measures proposed in project authorization documents, project design memoranda, master plans, or reflected in the project NEPA documents.

(f) Real estate grants for use of excess or surplus real property.

(g) Real estate grants for Government-owned housing.

(h) Exchanges of excess real property and interests therein for property required for project purposes.

(i) Real estate grants for rights-of-way which involve only minor disturbances to earth, air, or water:

(1) Minor access roads, streets and boat ramps.

(2) Minor utility distribution and collection lines, including irrigation.

(3) Removal of sand, gravel, rock, and other material from existing borrow areas.

(4) Oil and gas seismic and gravity meter survey for exploration purposes.

(j) Real estate grants of consent to use Government-owned easement areas.

(k) Real estate grants for archeological and historical investigations compatible with the Corps Historic Preservation Act responsibilities.

(l) Renewal and minor amendments of existing real estate grants evidencing authority to use Government-owned real property.

(m) Reporting excess real property to the General Services Administration for disposal.

(n) Boundary line agreements and disposal of lands or release of deed restrictions to cure encroachments.

(o) Disposal of excess easement interest to the underlying fee owner.

(p) Disposal of existing buildings and improvements for off-site removal.

(q) Sale of existing cottage site areas.

(r) Return of public domain lands to the Department of the Interior.

(s) Transfer and grants of lands to other Federal agencies.

§ 230.10 Environmental Assessments (EA).

(a) *Purpose.* An EA is a brief document which provides sufficient information to the district commander on potential environmental effects of the proposed action and, if appropriate, its alternatives, for determining whether to prepare an EIS or a FONSI (40 CFR 1508.9). The district commander is responsible for making this determination and for keeping the public informed of the availability of the EA and FONSI.

(b) *Format.* While no special format is required, the EA should include a brief discussion of the need for the proposed action, or appropriate alternatives if there are unresolved conflicts concerning alternative uses of available resources, of the environmental impacts of the proposed action and alternatives and a list of the agencies, interested groups and the public consulted. The document is to be concise for meaningful review and decision.

(c) *Integration with Corps Reports.* In the case of planning and/or engineering reports not requiring an EIS, the EA may be combined with or integrated into the report. The same guidance on combining or integrating an EIS within the report shall apply equally to an EA. Where the EA is combined with a Corps report or prepared as a separate document in the case of construction, operating projects and real estate actions requiring an EA, the EA normally should not exceed 15 pages.

§ 230.11 Finding of No Significant Impact (FONSI).

A FONSI shall be prepared for a proposed action, not categorically excluded, for which an EIS will not be prepared. The FONSI will be a brief summary document as noted in 40 CFR 1508.13. In the case of feasibility, continuing authority, or special planning reports and certain planning/engineering reports, the draft FONSI and EA

should be included within the draft report and circulated for a minimum 30-day review to concerned agencies, organizations and the interested public (40 CFR 1501.4(e)(2)). In the case of operation and maintenance activities involving the discharge of dredged or fill material requiring a public notice, the notice will indicate the availability of the EA/FONSI. For all other Corps project actions a notice of availability of the FONSI will be sent to concerned agencies, organizations and the interested public (40 CFR 1501.4(e)(1)).

§ 230.12 Notice of intent and scoping.

As soon as practicable after a decision is made to prepare an EIS or supplement, the scoping process for the draft EIS or supplement will be announced in a notice of intent. Guidance on preparing a notice of intent to prepare an EIS for publication in the Federal Register is discussed in Appendix C. Also, a public notice will be widely distributed inviting public participation in the scoping process. As described in 40 CFR 1501.7 and reference 3(m), this process is the key to preparing a concise EIS and clarifying the significant issues to be analyzed in depth. Public concerns on issues, studies needed, alternatives to be examined, procedures and other related matters will be addressed during scoping.

§ 230.13 Environmental Impact Statement (EIS).

An EIS for feasibility or continuing authority reports and certain planning/engineering reports may be combined with or integrated into the report in accordance with 40 CFR 1500.4(o) and 1506.4. An EIS combined with the report shall follow the format in 40 CFR 1502.10, follow the main report, use colored paper and not be an attachment or appendix. An EIS integrated within the report may follow the instructions in the last paragraph of 40 CFR 1502.10. Additional guidance on combining and integrating EISs is located in ER 1105-2-60. Where the EIS is not combined with or integrated into the project document, the EIS shall be a separate document and follow the format in 40 CFR 1502.10. CEQ regulations suggest maximum lengths for the text of an EIS at